County of Los Angeles
CHIEF EXECUTIVE OFFICE
Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
http://ceo.lacounty.gov

WILLIAM T FUJIOKA
Chief Executive Officer

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To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE

This memorandum contains pursuit of County positions on legislation related to: 1) the sale of electrolyte replacement beverages to students in middle schools and high schools; 2) expedited judicial review process under the California Environmental Quality Act; and 3) dispensing of prescribed medications; an update on County-sponsored legislation regarding flood control and water liability protection, and County-advocacy legislation regarding redevelopment; and a report on hearings conducted by budget subcommittees on the Governor's FY 2012-13 Proposed Budget.

Pursuit of County Position on Legislation

AB 1746 (Williams), which as introduced on February 17, 2012, would restrict the sale of electrolyte replacement beverages to students in middle schools and high schools to one-half hour before the start of the school day and one-half hour after the end of the school day.

Current law prohibits the sale of electrolyte replacement beverages, also known as sports drinks, on elementary school campuses and the sale of sodas in all schools. AB 1746 would restrict the sale of electrolyte replacement beverages to students in middle schools and high schools to one-half hour before the start of the school day and one-half hour after the end of the school day. When these beverages are available for sale, they may not contain more than 42 grams of added sweetener per 20-ounce serving.

According to the Department of Public Health (DPH), research shows that water is the best way for children to rehydrate and that there is no benefit in substituting electrolyte replacement beverages for water as a primary form of fluid. Further, many electrolyte

replacement beverages contain high fructose corn syrup, which is also the main sweetener in soda. DPH notes that many parents and children are unaware the electrolyte replacement beverages are not a healthy beverage choice. DPH also indicates that on average 43 percent of the children living in the County consume at least one sugar-sweetened beverage per day contributing to the high rates of childhood obesity. DPH concludes that AB 1746 would support the County's ongoing efforts to increase public awareness around the health impact of increased sugar intake, and would help reduce consumption of sugar-sweetened beverages among children.

The Department of Public Health and this office support AB 1746. Therefore, consistent with existing Board policy to support legislation that promotes reduced consumption of sugar-sweetened beverages, including sodas, and sports drinks and reduces youth access to these products, **the Sacramento advocates will support AB 1746.**

AB 1746 is sponsored by the California Medical Association and the California Center for Public Health. There is no registered support or opposition on file at this time.

This measure is scheduled for a hearing in the Assembly Education Committee on March 28, 2012.

AB 2163 (Knight), which as introduced on February 23, 2012, would make several changes to various provisions of AB 900 (Chapter 354, Statutes of 2011), which created an expedited judicial review process and specified procedures for the preparation and certification of the administrative record for an Environmental Impact Report (EIR).

Under existing law, the California Environmental Quality Act (CEQA) requires a lead agency with the principal responsibility for carrying out, or approving a proposed discretionary project, to evaluate the environmental effects of its action and prepare a negative declaration, mitigated negative declaration, or an EIR. If an initial study shows that the project may have a significant effect on the environment, the lead agency must prepare an EIR. A lead agency must base its determination of significant effects on substantial evidence. Current law also authorizes a judicial review of CEQA actions taken by public agencies following the agency's decision to carry out or approve the project. Challenges alleging improper determination that a project may have a significant effect on the environment, or alleging an EIR does not comply with CEQA, must be filed in the superior court within 30 days of filing of the notice of approval.

AB 900, the Jobs and Economic Improvement Through Environmental Leadership Act of 2011, created an expedited judicial review process and specified procedures for the preparation and certification of the administrative record for an EIR. This measure also authorized the Governor, upon application, to certify a leadership project related to the development of a residential, retail, commercial, sports, cultural, entertainment, or

recreational use project, or clean renewable energy or clean energy manufacturing project.

As reported in the February 8, 2012 Sacramento Update, the County took a support-and-amend position on SB 52 (Steinberg), because the bill would make several technical and clarifying changes to various provisions of AB 900, specifically, it clarifies that public projects are eligible for an expedited judicial review. AB 2163 would make the following additional changes to various provisions of AB 900:

- Indefinitely extend the use of the expedited judicial review process and specified procedures for the preparation of the record of proceedings for the certification of the administrative record for an EIR.

- Expand projects that would be eligible for those alternative processes to include, among others: 1) commercial development projects, such as projects for industrial, office, or retail use, exceeding 125,000 square feet; 2) residential development projects exceeding 50 units; and 3) recreational projects, such as golf courses, with over 20 acres of cultivated development.

- Repeal the requirements that a project: 1) result in a minimum investment of $100.0 million; 2) be located in an infill site; 3) be certified as Leadership in Energy and Environmental Design (LEED) silver or better project by the United States Green Building Council; and 4) be certified by the Governor.

In addition, AB 2163 would require that residential, retail, commercial, sports, cultural, entertainment, or recreation use projects that qualify for these alternative expedited processes to be designed to meet or exceed the standards for the CalGreen Tier 1 building, as provided in the California Green Building Standard; and achieve a 10 percent greater standard for transportation efficiency than for comparable projects.

According to County Counsel, in the event that the County decided to challenge any project that qualifies under AB 2163, SB 52, or AB 900, including the EIR, the County would be subject to the same expedited timelines and procedures expected from any other challenger. If the County is the lead agency for a project, the County also would be required to comply with those requirements. County Counsel also indicates that the expedited time frame is ambitious and could be difficult to meet. AB 2163 would broaden the number of projects that could take advantage of the expedited processes, which would make it more difficult for the County to meet the extremely short time frames for certifying the record of proceedings and otherwise handle the processing of the project. Further, if the project is a public project, the County would be the applicant and responsible for the court costs such as: the appeals hearing; court ordered decisions; payments for a special master, if deemed appropriate by the court; and the

costs of preparing the administrative record for the project. The Department of Regional Planning and Department of Public Works (DPW) concur with comments made by County Counsel.

According to the Department of Public Works, the provisions of AB 2163 which expand the scope of a project, including repealing the requirements that a project result in a minimum investment of $100.0 million and be certified as a LEED project, could potentially benefit the County; however, the bill would not benefit existing DPW projects, since the department's projects specified in AB 2163. According to DPW, in order for this measure to benefit the County, the following conditions should be considered:

- Projects which provide critical services related to the health and safety of the public should not be required to implement mitigations to ensure no net increase in harmful emissions; rather, the local jurisdiction should be required to implement measures which reduce their net emissions.

- Include transportation projects to reduce traffic congestion and other infrastructure projects that do not generate new trips and do not result in net increases in emissions. Allow limited greenhouse gas emissions, if the proposed project is offsetting other hazards or impacts to the public's health, safety, and water supply.

On September 27, 2011, your Board directed this office and the Sacramento advocates to initiate/support legislative efforts that provide the same expedited judicial review process under the CEQA contained in SB 292 (Chapter 353, Statutes of 2011) for projects that provide vital public services, including hospitals, health clinics, fire and police/sheriff stations, communication facilities/systems, libraries, schools, transportation projects, and other vital government capital projects in the County of Los Angeles that serve the public interest as well as commercial, sports, cultural, recreational and clean energy projects. SB 292 established an expedited judicial review process for the proposed downtown Los Angeles Convention Center modernization and Farmers Field Project. Therefore, consistent with existing policy and your Board directive of September 27, 2011, to support legislation that provides expedited judicial review processes, similar to those provided in SB 292 of 2011, and **because it would expand the scope of projects that would be eligible for an expedited judicial review and lower the qualifying level for projects seeking to participate in the expedited judicial review, the Sacramento advocates will support AB 2163, if the measure is amended to expand the scope of projects to include projects that provide vital public services, as indicated above.**

There is no registered opposition or support on file for AB 2163. This measure is awaiting a hearing in the Assembly Natural Resources Committee.

SB 1301 (Hernández), which as introduced on February 23, 2012, would allow a pharmacist to dispense up to a 90-day supply of a prescription drug refill, unless the prescriber indicates otherwise on the written prescription. The measure excludes prescriptions for controlled substances.

The author of SB 1301 indicates that the current 30-day restriction for filling a prescription results in higher health care costs and with every monthly visit to a pharmacy, an additional charge is levied as the cost of filling a prescription is based on the product cost plus the dispensing cost. In addition, failure to adhere to prescribed medication therapy can lead to deterioration in the patient's health, which in turn, can lead to higher cost medications and more frequent medical interventions. The sponsors conclude that allowing patients to receive a 90-day supply of maintenance medications would increase adherence rates and improve patient outcomes while reducing health care costs.

The Department of Health Services (DHS) notes that chronic health issues such as heart disease, hypertension, diabetes, high cholesterol, and thyroid disorders are easily controlled by the use of prescribed medications. DHS concurs with the author of SB 1301 that failure to adhere to prescription therapy can lead to deterioration in a patient's health resulting in increased emergency room visits and hospitalizations. Further, many individuals in the County suffering with these chronic illnesses are low-income and lack easy access to transportation. Monthly trips to a pharmacy may be burdensome and costly and these patients may forgo picking up medications in lieu of meeting other basic needs, thereby jeopardizing their health. DHS indicates that SB 1301 would increase access to needed medications and improve the health of many County residents with chronic health conditions that are easily controlled with prescribed medications.

The Department of Health Services and this office support SB 1301. Therefore, consistent with existing Board policy to support proposals to enhance access to prescription drugs, **the Sacramento advocates will support SB 1301.**

SB 1301 is sponsored by the California Retailers Association and supported by Walgreens, the California Healthcare Institute, and Biocom. There is no registered opposition on file.

This measure is scheduled for a hearing in the Senate Health Committee on March 28, 2012.

Status of County-Sponsored Legislation

County-sponsored AB 1558 (Eng and Hernández), which as introduced on January 26, 2012, would extend the sunset date on liability protections for DPW in County unlined channels and adjacent spreading grounds during flood control and water conservation operations, passed the Assembly Judiciary Committee by a vote of 8 to 0 on March 20, 2012. The measure now proceeds to the Assembly Floor.

Status of County-Advocacy Legislation

County-oppose-unless-amended AB 1585 (Pérez), which as amended on March 15, 2012, would modify provisions of ABX1 26 (Chapter 5, Statutes of 2011) related to: 1) the distribution of Low Moderate Income Housing (LMIH) funds; 2) the definition of the terms enforceable obligation and administrative cost allowance; 3) the responsibilities of the successor agency and oversight board; and 4) the responsibilities of the auditor-controller, among other provisions, passed the Assembly Local Government Committee by a vote of 7 to1 on March 21, 2012.

The Sacramento Chief Lobbyist, Alan Fernandes, testified before the Committee expressing the County's opposition to provisions in AB 1585 which would expand the definition of an enforceable obligation and in support of the provisions in the bill which would allow local housing authorities to retain LMIH funds. The County Counsel for Santa Clara also testified in opposition to AB 1585. Assembly Member Toni Atkins, who presented the bill to the committee on behalf of Assembly Speaker John Pérez, offered to work with both Los Angeles and Santa Clara counties to address their shared concerns with this measure.

AB 1585 is scheduled for a hearing in the Assembly Appropriations Committee on March 22, 2012. This bill is an urgency measure and would be effective immediately if approved by the Legislature and signed by the Governor.

Subcommittee Hearings on the Governor's Budget

On March 15, 2012, the Senate Budget Subcommittee No. 3 on Health and Human Services convened to consider several human services program changes and reductions in the Governor's FY 2012-13 Proposed Budget, including administrative changes to the CalFresh Program, and proposed reductions to the In-Home Supportive Services (IHSS) program.

Specifically, the Subcommittee took the following actions:

1) Voted 2 to 1 to approve the Governor's proposed administrative changes to the CalFresh Program, including $32.1 million in increased funding as a result of recently enacted legislation, AB 6 (Chapter 501, Statutes of 2011), which eliminated the requirement to fingerprint CalFresh recipients. The only proposed CalFresh administrative change not approved at the hearing was the adjustment related to county expenditure patterns, which the Subcommittee held open, since the Administration has indicated that potential changes to this estimate are pending.

2) Voted 3 to 0 to reject the IHSS Trailer Bill language to define the criteria for pre-approval of exceptions to the 20 percent trigger reduction in IHSS hours. The Administration's proposed IHSS Trailer Bill provided additional detail to statutory provisions in the enacted FY 2011-12 State Budget, which the Subcommittee Chair indicated that it did not make substantive changes in how the State Department of Social Services would implement the law.

3) Voted 2 to 1 to repeal the across-the-board trigger reduction in IHSS hours. As previously reported, implementation of the 20 percent trigger reduction scheduled to take effect on January 1, 2012 has been blocked by a Federal district court judge.

In addition, the Subcommittee held open other remaining issues, such as the proposed elimination of IHSS domestic and related services, and the proposed elimination in State funding for the Cal-Learn Program. These issues will be considered after the May Budget Revision is released.

On March 14, 2012, the Assembly Budget Subcommittee No. 2 on Education, by a vote of 3 to 2, rejected the Governor's Budget proposal to shift eligibility determination and payment functions for subsidized child care programs from the California Department of Education to counties.

We will continue to keep you advised.

WTF:RA
MR:VE:IGEA:sb

c: All Department Heads
Legislative Strategist